

MINUTES
REGULAR CITY COUNCIL MEETING
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
CITY COUNCIL CHAMBERS, YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
OCTOBER 7, 2009
5:30 p.m.

CALL TO ORDER

Mayor Nelson called the City Council meeting to order.

INVOCATION/PLEDGE

Emilio Chapa, Pastor of St. Francis Church, gave the invocation. **Bobby Arviso**, Senior Street Maintenance Worker, led the City Council in the pledge of allegiance.

ROLL CALL

Councilmembers Present: Shoop, Mendoza, Beeson, McClendon, Nicholls, Johnson and Mayor Nelson
Councilmembers Absent: none
Staffmembers Present: City Administrator, Mark Watson
City Attorney, Steven Moore
Director of Parks and Recreation, Becky Chavez
Economic Development Program Manager, Pete Erlenbach
Various Department Heads or their representative
City Clerk, Brigitta M. Kuiper

FINAL CALL

Mayor Nelson made a final call for the submission of Speaker Request Forms from members of the audience.

PRESENTATIONS

Mayor Nelson noted that members of Cub Scouts Webelos Pack 92 were in the audience.

Chavez recognized the members of the Dog Park Citizens Committee, presenting the committee members with a painted dog house.

COMMUNICATIONS / FACTUAL RESPONSES

Watson corrected the amounts associated with the new dog park, Bark Park, recently published in *The Sun*: \$27,000 was raised and invested in the park, not \$70,000, which was the estimate based on the original design and larger concept.

I. CALL TO THE PUBLIC

Greg Ferguson, 2069 W. 13th Lane, stated the Arizona Department of Game and Fish has made a formal bid to purchase the Adair Range, a local shooting range located in Yuma County and owned by a conglomeration of hunting clubs, Adair, Inc. Adair, Inc. initiated the negotiations. A public hearing on the sale is scheduled to be held before the Yuma County Board of Supervisors on November 16, 2009; representatives of Game and Fish will be present.

Jack Kretzer, 761 W. Queens Place, expressed his concern over comments made by Watson on the local *Talk of Yuma*, John Phipps radio program. During the broadcast, Watson responded to a question about the City's Reduction in Force (RIF) policy by saying the City's goal is reduce the work force by some 60 positions. **Kretzer**: The City should cut pay across the board rather than lay people off. He asked for a show of hands of those City Councilmembers who would resist laying off employees. **Moore** reminded City Councilmembers that they could not participate in a poll because the matter is not on an agenda for action. **Watson**: The City has been able to reduce its number of positions through eliminating vacant positions and restructuring.

Mary Ann Easterday, 3359 S. 15th Avenue, reminded the public of the next Household Hazardous Waste collection day and urged interested persons to pick up an application to serve on the Clean and Beautiful Commission.

II. MOTION CONSENT AGENDA

Motion (Shoop/Beeson): To adopt the Motion Consent Agenda as recommended, with the exception of items B.15 and B.17, which were removed by Mayor Nelson for separate consideration. Voice vote: **approved 7-0.**

A. Approval of minutes of the following City Council meetings:

Special Worksession/Roundtable	September 8, 2009
Regular Worksession	September 8, 2009
Regular Council Meeting	September 9, 2009
Special Worksession/Roundtable	September 15, 2009

B. Approval of Staff Recommendations:

1. Executive Sessions may be held at the next regularly scheduled Special Worksession, Regular Worksession and City Council Meeting for personnel, legal, litigation and real estate matters pursuant to A.R.S. § 38-431.03 Section A (1), (3), (4), and (7). (Attny)
2. Approve a Special Event Liquor License application submitted by Robert L. Pickels, Jr., on behalf of the Yuma County Board of Supervisors for the County Supervisors Association Legislative Summit dinner. The event will be held Wednesday, October 28, 2009, at the Yuma Territorial Prison. (SP09-13) (Admin/Clerk)
3. Approve a Special Event Liquor License application submitted by Carolyn Bennett, on behalf of the Yuma Fine Arts Association for the 2009 Beer Fest. The event will be held at the Yuma Art Center, 254 S. Main Street on Friday, October 30, 2009. (SP09-14) (Admin/Clerk)
4. Approve a #6 Bar (Person Transfer/Interim Permit) Liquor License application submitted by Gregory Ried Condry, agent for the Western Club, 2545 W. 16th Street, Yuma, Arizona. (LL09-18) (Admin/Clerk)

5. Award to the lowest responsive/responsible bidder for Avenue C - Riverside Drive to Figueroa Avenue 24" Sewer Force Main Construction at a total cost of \$599,318.50 to DPE Construction, Inc., Yuma, Arizona. (Bid #2010000042) (Eng)
6. Award to the lowest responsive/responsible bidder for Casa Mañana Neighborhood Street Reconstruction Project at a total cost of \$1,119,211.61 to B.T.Z. Inc., dba Zeller's, Yuma, Arizona. (Bid #2009000303) (Eng)
7. Reject all bids for Nuts and Bolts (Fasteners and Related Hardware). (Bid #2009000447) (Citywide)
8. Authorize a contract amendment to extend the Integrated Mobile Wireless Data Solution contract for an additional five (5) year term and increase the contract value by \$5,000,000.00 to Motorola Inc., San Diego, California. (Contract #03-13042) (ITS)
9. Authorize a sole source contract increase in accordance with the Yuma City Code, Section 36-39, Sole Source Procurement for Location/Relocation Telecommunications Facility in an amount estimated at \$179,926.00 to Level 3 Communications, LLC, Broomfield, Colorado. (Bid #2007000456) (Eng)
10. Authorize the execution of an agreement with Yuma Regional Medical Center as a clinical training site for the Advanced Life Support Training Center, replacing the existing contract dated December 1, 2002 and First Amendment effective January 1, 2006. (Fire/Professional Services)
11. Authorize the City Administrator to execute an Intergovernmental Agreement with Arizona State Parks to lease, manage, and operate the Yuma Quartermaster Depot State Historic Park. (Admin/YCNHA)
12. Authorize the City Administrator to execute an Agreement with the Yuma Crossing National Heritage Area for the operations of the Yuma Quartermaster Depot State Historic Park, to provide funding to support park operations in the amount of \$166,000.00 for fiscal year 2009-2010, and to provide performance standards for the Yuma Crossing National Heritage Area Corporation. (Admin/YCNHA)
13. Authorize the City Administrator to approve an Intergovernmental Agreement with Arizona Department of Transportation (ADOT) to provide vehicle washing services for ADOT vehicles. (PW)
14. Authorize the City Administrator to extend an Intergovernmental Agreement with the Arizona State Parks Board to provide fuel and preventive maintenance for State Parks vehicles. (PW)
15. Removed for separate consideration; see below.
16. Endorse legislative agenda items for the Legislative Summit to be held on October 15, 2009. (Attny)

17. Removed for separate consideration; see below.

Motion Consent Agenda Items Removed for Separate Consideration

- B.15. Approve the final plat of the Saguaro Subdivision Phase #2. The property is located at the southeast corner of 40th Street and Avenue 7 1/2 E. The applicant is Dahl, Robins and Associates, on behalf of Cholla Desert Land, Inc. (S2008-005-02). (DCD/Planning)

Motion (Johnson/Beeson): To approve the final plat for Saguaro Subdivision Phase #2, as recommended by the Planning and Zoning Commission, with the addition of the following conditions:

6. The rights-of-way must be dedicated free and clear to the City, and all easements in the right-of-way must be vacated unless the easement is specifically presented to the City, and the City specifically approves its acceptance. Approval of the plat is not approval of an easement in the right-of-way.
7. Any easements on other property in the subdivision must be vacated to the extent that they would require a utility, licenses cable operator, or other licensed or franchised communications system (collectively, the "utilities") to:
 - a. pay to cross the easement to reach any structure on the lot;
 - b. prevent the utilities from providing service to any structure on a lot; or
 - c. effectively prevent any entity authorized to place facilities in a utility easement from using the easements or accessing potential customers passed by the easement.
8. Approval of the plat does not authorize the maintenance or installation of any facility in the rights-of-way, whether or not contemplated by the plat, without a license, franchise or similar authorization issued by the City.

Johnson: The motions contains conditions were to be presented to the Planning and Zoning Commission in connection with this final plat; however, that was not the case. Including the conditions at this stage of the process will avoid future complications. **Moore:** The above conditions are standard verbiage in final plat recommendations; they were inadvertently left out of the conditions reviewed and voted on by the Planning and Zoning Commission. The purpose of the conditions is to avoid conflicting private easements that might restrict homeowners from accessing communications facilities. The proposed amendments would implement what the City has been practicing elsewhere. The applicant has been informed of the proposed final plat amendments.

Kevin Dahl, Dahl, Robins and Associates, 1560 S. 5th Avenue, stated he has no issues with the conditions.

Voice vote: **approved** 7-0.

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- B.17. Authorize the City Administrator to execute an agreement between Yuma Aquatics Inc., dba Yuma Heat and the City of Yuma, for the operation of Marcus Pool. (Parks & Rec)

Speakers:

Dr. JoAnn Mowczko, 4558 W. 27th Street, expressed her concern that the City Adaptive Aquatics program would be adversely affected by the take over of Marcus Pool by Yuma Heat. If Yuma Heat can run the pool more efficiently, why is it proposing to raise the rates for those in the aerobics class from \$31 to \$90 for three months? Yuma Heat should be responsible for additional money needed to operate the pool and the City should continue to support Adaptive Aquatics as it has in the past. People with various ailments and handicaps and in various age ranges participate in the program. Many are on limited incomes and have limited options for recreational programs.

Bill Mowczko, 4558 W. 27th Street, objected to the proposed winter swim fee schedule proposed by Yuma Heat. Per the proposal, City residents would pay a greater percentage increase than is being proposed for non-City residents. In addition, the proposed fees for Adaptive Aquatics are too costly – representing a 64% increase. Previous fees levels encouraged seniors to participate in preventative health activities, but, if the proposed fees are implemented, people will be forced out of the program. The contract calls for the City to collect \$32 for a three-month period, but pay Yuma Heat \$90 for the same period; Yuma Heat should not charge the City more nor cause the City to subsidize aerobics participants. The contract should be amended so that Yuma Heat charges the same fees the City would for the program.

Susan Ziegler, 3102 W. 18th Street, participant in the Adaptive Aquatics Aerobics program, stated that everyone but Yuma Heat was happy with keeping Carver Park pool open this winter. Moving to Marcus Pool was for the convenience of Yuma Heat and should be at their cost - not at the cost of the City recreational program participants. She asked those in the audience who participate in the aerobics program and who support her comments to stand.

Dennis Booth, 8302 E. Adobe Ridge Road, spoke in support of the agreement. This issue has received considerable debate. The amount of money involved has not been clarified; there are a lot of figures being rumored around. Yuma Heat benefits the youth involved by teaching them discipline; the ability to have swim meets brings tourism into the area. The City should work with Yuma Heat, while caring for the senior citizens and those participating in the aerobics classes.

Jack Kretzer, 761 W. Queens Place, questioned the need for an agreement; things should be handled the way that they have been all along. The newspaper and City staff have been issuing conflicting statements about whether Marcus and Carver pools will be open this winter. Now, apparently, Carver Pool will be closed and all of its activities transferred to Marcus Pool. Is the agreement in violation of the Arizona Constitution's gift clause? Doesn't the leasing of a pool require the competitive bidding process?

Juli Jessen, 370 Main Street (1971 W. 15th Street), speaking in support of lap swimmers, urged the City Council to make a decision – find them a reasonable size pool – so lap swimmers will know whether they will be able to swim in the winter. The situation has been confusing. Carver Pool will not accommodate Yuma Heat and lap swimmers; it's become almost a contact sport. She supported the continuation of the Hospitality Tax and was shocked to see that programs were being reduced. A city the size of Yuma should have lap swimming available, especially since the area has been highlighted for its obesity. Yuma Heat provides lifetime opportunities for local youth.

Moore responded that there are four programs besides Yuma Heat that will be accommodated by this agreement: Swim for Fitness, Water Exercise Training (WET; low impact aerobics), Adaptive Aquatics (low impact and special needs), and Adult Fun Swim programs. The agreement acknowledges and agrees that the WET and Adaptive Aquatics programs are important and, therefore, includes a paragraph stating that the City will register participants for these two programs, determine the fees for these programs and remit to Yuma Heat the fee amounts set forth in Exhibit 1; thus, the City will be subsidizing these two programs. The City Parks and Recreation Department has indicated that it will implement modest fee increases over last year, a standard annual practice.

Continuing, **Moore** stated that in no way does the agreement violate the gift clause of the Arizona Constitution. The City works jointly with a number of non-profit organizations throughout the community to offer primarily youth activities and programs and does not competitively bid such projects.

Finally, **Moore** explained that 2% Hospitality Tax allocations to parks and recreation was continued with no increase in the amount of funding. The City Parks and Recreation Department is also supported by the General Fund, which has seen significant losses; major income losses have been experienced at all levels of government in Arizona, as well as private organizations and businesses. Police, Fire and Parks and Recreation Departments account for approximately 70% of General Fund expenditures and cuts in General Fund expenditures will necessarily affect parks and recreation programs. These cuts have nothing to do with 2% funding.

Watson stated that the City wasn't considering closing all City pools. The issue was whether Carver Pool or Marcus Pool would be used in the winter. Carver Pool was the less costly to operate. Yuma Heat proposes operating Marcus Pool at roughly the same cost to the City as Carver Pool.

Motion (Beeson/Nicholls): To approve Item B.17, as recommended.

Johnson drew attention to costs:

- The City has always subsidized Parks and Recreation Department youth athletic activities, though the cost of that subsidy varies per sport.
- Currently, the City charges \$2.00 per participant per season
 - Yuma Heat has 127 participants = \$254 per season in fees
- Carver Pool winter operations
 - Cost: \$56,000
 - Admission fee revenues: \$12,532
 - Net cost: \$43,468.
- Marcus Pool winter operations
 - Cost: \$94,000
 - Admission fee revenues: \$12,532 (same as Carver Pool estimate)
 - Net cost: \$81,468.
- Difference in costs to operate Carver Pool versus Marcus Pool: \$38,000
- Per proposed agreement:
 - City of Yuma to pay Yuma Heat \$60,000 to operate Marcus Pool
 - Fee differential paid by City to Yuma Heat: approximately \$2,500
 - Total cost to City: \$62,500

- Difference between net cost to operate Marcus Pool and the City's contribution to Yuma Heat for its operation: \$18,968
 - Equal to a subsidy of \$147.85 per Yuma Heat participant
 - To be recouped by increased admission fees and more efficient operation
- Given that other more important programs and personnel are being cut, the City cannot afford this contract; he will be voting against it.

Nicholls: The \$18,968 would not be coming from the City's budget. Yuma Heat is not the only group using this pool. Swimming can't be retrofitted just anywhere. If the pool is not big enough to handle the demand; it's not serving as a pool. **Johnson:** The \$18,968 would have to come from the public, but not City government specifically. It would have to be made up by higher fees to the public.

Nicholls: Yuma Heat, however, is not the only one being subsidized. All the programs are being subsidized. The entire use of the pool – all the programs involved – need to be considered. Perhaps a non-profit organization can run the pool more efficiently.

Andrew Gould recounted the background of the issue and how the economy was affecting pool operations. The \$12,532 in pool admission fees was used last year by the City to pay for the staff needed to run the Parks and Recreation Department programs – not Yuma Heat; the parents of Yuma Heat swimmers pay for the costs of their staff. The contract is written in such a way that Yuma Heat bears all the risk of not being able to make up the difference in what the City pays them and they collect from users and the costs to operate the pool. Yuma Heat is pursuing this agreement because they realize it is the only way to keep Marcus Pool open and their program alive. As a citizen he agrees with keeping the costs down and subsidizing programs. However, reduced fees would not pay costs. The fees proposed by Yuma Heat would cover only the cost of staffing the programs; they would create no profit for Yuma Heat. Any extra goes back to the City. Marcus is a better pool for all the programs and Yuma Heat will bring money into the community. Lower participation, a cold winter, and mounting repairs could all affect the success of Yuma Heat's venture. Yuma Heat is willing to jeopardize its existence by taking on Marcus Pool; all they are asking of the City is a chance to do so.

Johnson recalled a similar community outcry in 2003 when money was tight and the City was considering closing pools. He expressed his doubt that Yuma Heat would be able to successfully operate the pool, given the costs. **Gould:** Yuma Heat has already implemented some cost saving practices at the pool and they are even thinking long term in considering solar power options. If the City closes Marcus Pool in preference for Carver Pool, not all of the programs will be able to be accommodated. Few other participants in City programs would come forward to help during these tight times. Don't just say that Yuma Heat is being subsidized; Yuma Heat is willing to be responsible for the difference between in the cost of running Carver Pool and the cost of running Marcus Pool. Marcus Pool is not only key to Yuma Heat, but to a number of social groups for their exercise and socializing.

McClendon: Initially, the proposed fees were a big concern to her. It is to Yuma Heat's credit that they revisited the issue and the fees to the WET and Adaptive Aquatic users will remain relatively constant. Yuma Heat is taking a big risk, but its members have faced the challenge and that is what will help them succeed. It has been mentioned that Yuma Heat intends to create more programs and communicate their programs to the community more effectively. **Gould:** Yuma Heat intends to offer more programs and more program times. A dive team has expressed interest in using the pool for a

winter season; even swimming lessons in the off season may be offered. New ideas and programs will be critical in their success, as will getting information out to the public.

McClendon expressed her support for expanded programs, but cautioned that money is tight and success will be difficult.

Mendoza noted that many of the parents of Yuma Heat participants are in the audience, but have not chosen to speak. He asked that they stand. **Gould** explained he had advised them not to come forward individually because their presence would make the impact needed; many of them have spoken in the past on the issue.

Shoop thanked Yuma Heat for offering solutions rather than just presenting problems – much needed in these economic times. Yuma Heat is taking a risk, but its members are dedicated to its success. She does not want to see Yuma Heat fail nor any facilities closed, leaving them open to vandalism, which, itself, presents increased costs. The contract is for eight months; should something go wrong, it can be stopped. She is willing to take the risk with those who have pledged themselves to the project.

Beeson: This contract represents a great opportunity to the community, but a great responsibility to the organization. It will pave the way for future public/private partnerships.

Mendoza: This arrangement will be established on a trial basis. If it fails, everyone can go back to Carver Pool. Many of the concerns voiced at a meeting earlier today were based on hearsay, which can become exaggerated very quickly. The contract is actually a landlord/tenant contract, wherein the City is the landlord and Yuma Heat the tenant. At the earlier meeting, residents objected to the percentage of increases to City residents, but all programs are subsidized. No one can say what revenues from the programs will bring in. The contract can be stopped at any time. The reputation of Yuma Heat is on the line; City Councilmembers' reputations are on the line, but this is a safe risk.

Mayor Nelson also expressed his appreciation for the Yuma Heat's time and effort in working toward a solution.

Roll call vote: **adopted** 6-1; Johnson voting nay.

III. RESOLUTION CONSENT AGENDA

Motion (Shoop/Johnson): To approve the Resolution Consent Agenda as recommended, with the exception of R2009-79, which was removed for separate consideration.

Kuiper displayed the following titles:

Resolution R2009-74

A resolution of the City Council of the City of Yuma, Arizona, approving and adopting an Identity Theft Prevention Program (Finance)

Resolution R2009-75

A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving the execution of a Preannexation Development Agreement with the owner of real property located at 4293 W. El Dorado Road

(Applicant: James V. & Rosanna Davey Trust 12-29-08) (Admin/EcDev)

Resolution R2009-76

A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving the execution of a Preannexation Development Agreement with the owner of real property located at 9128, 9132 and 9134 E. 22nd Lane

(Applicant: Steven A. and Julie A. Wilson) (Admin/EcDev)

Resolution R2009-77

A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving an Intergovernmental Agreement supporting the renewal and continuation of a County-wide Enterprise Zone with the Yuma County Board of Supervisors acting as the Enterprise Zone Commission and Greater Yuma Economic Development Corporation acting as the Enterprise Zone Administrator

(Intergovernmental Agreement for a 5-year renewal and continuation of the Yuma County Enterprise Zone) (Admin/EcDev)

Resolution R2009-78

A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving a Development Agreement deferring Citywide Development fees and Water and Sanitary Sewer Capacity fees for Lot 11, Tuscany Medical & Professional Plaza Phase 1 Lot Split

(Applicant: Territorial Real Estate, LLC) (Eng)

Roll call vote: **adopted** 7-0.

Resolution Consent Agenda Item Removed for Separate Consideration

Resolution R2009-79: Development Fee Deferral - Approve a Development Agreement with Leonel and Estela Mungia and Rosjon Real Estate & Investments, L.L.C., deferring Citywide Development Fees and water and sanitary sewer capacity fees for properties in the 2200 Block of Avenue C. (Eng)

Nicholls declared a conflict of interest due to a business association with the applicant.

Motion (Shoop/McClendon): To adopt Resolution R2009-79 as recommended.

Kuiper displayed the following title:

Resolution R2009-79

A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving a Development Agreement deferring Citywide Development fees and Water and Sanitary Sewer Capacity fees for Leonel Cardenas Mungia and Maria Estela Mungia, husband and wife, and Rosjon Real Estate & Investments, L.L.C., an Arizona Limited Liability Company

(Applicant: Leonel and Estela Mungia and Rosjon Real Estate & Investments, LLC) (Eng)

Roll call vote: **adopted** 6-0-1; Nicholls abstained due to a conflict of interest, as stated above.

IV. ADOPTION OF ORDINANCES CONSENT AGENDA

Motion (Johnson/Mendoza): To adopt the Ordinance Consent Agenda as recommended.

Kuiper displayed the following titles:

Ordinance O2009-29

An ordinance of the City Council of the City of Yuma Arizona, amending Chapter 154 of the Yuma City Code, Section 003, to allow 4-H and FFA project animals in all residential districts subject to requirements, and to amend Section 004 to add a definition of 4-H and FFA projects, and to delete conflicting text in Sections 037 & 067 (Z2008-15) (CD/Planning)

Ordinance O2009-49

An ordinance of the City Council of the City of Yuma, Arizona, annexing to said City a portion of Section 3, Township 10 South, Range 23 West of the Gila & Salt River Base and Meridian, Yuma County, Arizona, amending Chapter 154 of the Yuma City Code, as amended, pursuant to the provisions of Title 9, Chapter 4, Article 7, Arizona Revised Statutes and amendments thereto (Annexation Area A2009-09; Associated Citrus Packers) (Admin/EcDev)

Ordinance O2009-50

An ordinance of the City Council of the City of Yuma, Arizona, annexing to said City a portion of Sections 10 and 15 of Township 10 South, Range 23 West of the Gila & Salt River Base and Meridian, Yuma County, Arizona, amending Chapter 154 of the Yuma City Code, as amended, pursuant to the provisions of Title 9, Chapter 4, Article 7, Arizona Revised Statutes and amendments thereto (Annexation Area A2009-11; Curtis Family Citrus) (Admin/EcDev)

Ordinance O2009-57

An ordinance of the City Council of the City of Yuma, Arizona, authorizing and directing that certain easement parcels of real property, hereinafter described, be acquired by the City of Yuma, by gift, purchase or under the power of eminent domain, for the reason that such property is required to improve the public roadway and utility infrastructure and other public purposes as may be related thereto, and authorizing payment therefor, together with costs necessary for the acquisition of said easement parcels of real property (Right-of-Way Acquisition: Casa Mañana Subdivision Streetlights; CIP 5.9207) (Eng)

Ordinance O2009-58

An ordinance of the City Council of the City of Yuma, Arizona, amending Ordinance No. O2005-71 for the purpose of revising a certain legal description contained therein and authorizing and directing that a certain parcel of real property, hereinafter described, be acquired by the City of Yuma, by gift, purchase, easement or under the power of eminent domain, for the reason that such property is required to improve the public stormdrain, roadway and utility infrastructure and other public purposes as may be related thereto, and authorizing payment therefor, together with costs necessary for the acquisition of said parcel of real property (Smucker Park Stormwater Basin Easement Amendment) (Eng)

Ordinance O2009-59

An ordinance of the City Council of the City of Yuma, Arizona, authorizing and directing that certain parcels of real property, hereinafter described, be acquired by the City of Yuma, by gift, easement, purchase or under the power of eminent domain, for the reason that such property is required to improve the public roadway and utility infrastructure and other public purposes as may be related thereto, and authorizing payment therefor, together with costs necessary for the acquisition of said parcel of real property

(Property Acquisition: 32nd Street Reconstruction; CIP 5.9402) (Eng)

Roll call vote: **adopted** 7-0.

V. INTRODUCTION OF ORDINANCES

Kuiper displayed the following titles:

Ordinance O2009-54

An ordinance of the City Council of the City of Yuma, Arizona, amending Chapter 154 of the Yuma City Code, as amended, relating to zoning regulations, providing for changes to the Zoning Code to merge the Design Review Commission, and the Historic District Review Commission

(Zoning Code text amendment) (DCD/Planning)

Ordinance O2009-60

An ordinance of the City Council of the City of Yuma, Arizona, amending Chapter 154 of the Yuma City Code, as amended, providing for changes to the Zoning Code to add the definition for Lot Coverage, and providing penalties for violations thereof

(Zoning Code text amendment) (DCD/Planning)

Ordinance O2009-61

An ordinance of the City Council of the City of Yuma, Arizona, authorizing and directing that certain easement parcels of real property, hereinafter described, be acquired by the City of Yuma, by gift, purchase or under the power of eminent domain, for the reason that such property is required to improve the public utility infrastructure and other public purposes as may be related thereto, and authorizing payment therefor, together with costs necessary for the acquisition of said easement parcels of real property

(right-of-way acquisition: Casa Mañana Subdivision Fire Hydrants) (Eng)

Ordinance O2009-62

An ordinance of the City Council of the City of Yuma, Arizona, relating to the Privilege License Tax; adopting "The 2009 Amendments to the Tax Code of the City of Yuma" by reference; providing for severability and providing penalties for violations

(Finance)

VI. PUBLIC HEARINGS

- A. Annexation A2009-06 – Gila Ridge Road & Avenue 3E:** A public hearing to consider the annexation of property located at the southeast corner of Gila Ridge Road and Avenue 3E, totaling 69 acres. (Admin/EcDev)

Mayor Nelson opened the public hearing at 7:09 p.m. **Deputy Mayor Shoop** presided over the meeting while Mayor Nelson absented himself from the meeting temporarily.

Erlenbach presented the following information:

- The City has worked with property owners and has obtained the appropriate number of Preannexation Development Agreements necessary to bring the annexation forward: Skyview Cooling owns five parcels and Transwest Cooling owns four parcels
- The annexation will leverage in a parcel owned by Jerry Thomas BLT Construction; he is in conversation with Thomas.

Discussion

Mendoza asked if there were only two businesses located in the annexation area. **Erlenbach** stated there is a third business that is leased out.

Johnson stated the map indicates that this annexation includes the right-of-way for Gila Ridge Road at Avenue 3E. Gila Ridge Road carries more truck traffic than any other roadway in the state and is the most congested intersection in Yuma County. Eventually, it will need to be rebuilt and, if it is annexed, the City will be responsible for these costs. **Erlenbach** confirmed that would be the case. **Deputy Mayor Shoop** asked whether staff had considered this when the annexation area was being drawn up. It appears that the right-of-way on County 10th Street is only for half the road, whereas the annexation area takes in all of the Gila Ridge Road right-of-way. **Erlenbach:** The annexation was circulated for staff's review and staff is aware that the area is a problem. Because Yuma County holds fee title to the roadways in this area and adjoining property owners have underlying easements, it was not possible to take in the other half of the roadway without taking in another property owner.

Nicholls: Doesn't the City already have jurisdiction over the other legs of this intersection?

Erlenbach: That is correct. **Nicholls:** The City already owns the problem; this annexation gives the City the ability to improve the intersection as a whole. Gila Ridge Road has limited access road, being located between Interstate 8 and the Union Pacific Railroad property, which offers little means of relief. **Erlenbach:** The intersection has posed an ongoing problem for 9-1-1 emergency jurisdictional responses; this annexation will help clear up this problem.

Moore: State law contains regulations relating to annexation areas and adjacent roadways. Tonight's item is a public hearing; the City Council is not being asked to take any action at this time.

Motion (Beeson/Johnson): To close the Public Hearing on Annexation A2009-06. Voice vote: **adopted 7-0;** Public Hearing closed at 7:14 p.m.

- B. Annexation A2009-12 – County 17 ½ Street and Avenue 1½ E:** A public hearing to consider the annexation of property located at the southeast corner of County 17½ Street and Avenue 1½ E, totaling 63.4 acres. (Admin/EcDev)

Mayor Nelson opened the public hearing at 7:15 p.m.

Erlenbach presented the following information:

- This property is the third and final addition the Estancia Master Planned Community.
- The City has worked with relevant property owners and has obtained the appropriate number of Preannexation Development Agreements necessary to bring the annexation forward.

Discussion

Shoop asked whether the 55-foot strip located on the east side of the annexation area is to remain in the County. **Erlenbach:** Yes.

Motion (Shoop/Nicholls): To close the Public Hearing on Annexation A2009-12. Voice vote: **adopted** 7-0; Public Hearing closed at 7:17 p.m.

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- C. Annexation A2009-13 – East Mesa at Avenue 9E:** A public hearing to consider the annexation of property located on the East Mesa south of 32nd Street at Avenue 9E, totaling 110 acres. (Admin/EcDev)

Mayor Nelson opened the public hearing at 7:18 p.m.

Erlenbach presented the following information:

- The property totals 110 acres of unincorporated land.
- The area includes Trail Estates Subdivision, Phases 1-3 and 13 primarily undeveloped commercial parcels adjacent to the Interstate 8 Frontage Road.
- The City has worked with property owners and has obtained the appropriate number of Preannexation Development Agreements necessary to bring the annexation forward.
- Residents are currently on the City's water and sewer systems.

Mayor Nelson asked about the Preannexation Development Agreements. **Erlenbach:** The City has 128 Preannexation Development Agreements on file from the residents in the annexation area. There are approximately 150 parcels. The development agreements represent well over 50% of the assessed value of the total properties.

Johnson asked if this annexation would be creating or eliminating a County island. **Erlenbach:** The larger area is an existing County island surrounded by City jurisdiction on four sides. This annexation will reduce the existing island into smaller islands.

Speakers

Jay Lyon, 11322 Adams Avenue, asked the City Council to forego this annexation. The land is bare desert and this is a back door attempt to annex other subdivisions that don't want to be annexed. In response to a question, **Lyon** stated he lives two streets east of this annexation area.

Diane Ewing, stated she lives within the proposed annexation area in the Del Sur Subdivision. She opposes being annexed. How can the City annex an island when an island is illegal, per state law?

Moore: The City of Yuma cannot create a new County island, but the City can annex portions of a County island. Numerous County islands exist through the City's jurisdiction, most of which were created some time ago. A County island is not illegal, per se; they exist and predate changes to the law. This annexation does not create a County island; it annexes a part of one.

Ewing stated that when she moved to Yuma, the City limits did not reach this far out; the island had to have been created within the last 15 years. Are the signatures collected for the annexations a public record? If so, where can they be found? **Moore**: The signed petitions – and any records associated with an annexation – can be requested through the City Clerk's Office via a Request for Public Records. There is no charge to review documents; copies for non-commercial purposes are 25 cents per page. **Ewing**: What does it cost to bring forward an annexation? The City has tried several times to annex Del Sur. **Moore**: There is no specific cost for bringing forward an annexation. Erlenbach is the City staff member who works on annexations in various locations. He would be the point of contact to ask about mailings and annexation information.

Watson pointed out that the annexation includes parcels in the Trail Estates Subdivision along 40th Street. Trail Estates is almost fully built out. The map indicates (hash marks) those people in Trail Estates who have signed Preannexation Development Agreements in support of being annexed. The last annexation attempted to annex the entire County island. Residents of Del Sur expressed their desire not to be annexed and the City has respected their wishes in this annexation. Because the 2010 census is drawing near, the City is attempting to annex all those who have committed to doing so; this annexation is part of that effort. The City has no intent to annex east of Avenue 9E in this vicinity at this time; in due time, the area will probably annex when further development arises and the area needs greater service.

Ewing asked why Avenue 9E is being annexed. **Watson**: Avenue 9E provides access to the commercial properties being annexed along the frontage road to the north. The ranchettes and larger lot parcels between Mesa Avenue and Avenue 9E will remain in the County. **Ewing** reiterated her desire to stay under County control.

Motion (Beeson/Mendoza): To close the Public Hearing on A2009-13. Voice vote: **adopted 7-0**; Public Hearing closed at 7:30 p.m.

VII. APPOINTMENTS, ANNOUNCEMENTS AND SCHEDULING

Motion (Shoop/Johnson): To appoint Mary Cordery, Melva Hinrichs, Bob Nidiffer, Cori Tyndall and Pauline Weiland to the Census 2010 Complete Count Committee. Voice vote: **adopted 7-0**.

Motion (Shoop/Mendoza): To appoint Louis Cale, Jr. to the Water and Sewer Commission with a term to expire 7/06/2010. Voice vote: **adopted** 7-0.

Motion (Shoop/McClendon): To re-appoint William S. Masland, with a term to expire 12/19/2010, and appoint Connie Jerpseth, with a term to expire 01/21/2013, to the Housing Authority of the City of Yuma (HACY). Roll call vote: **adopted** 6-0-1; Mendoza abstaining due to a conflict of interest as he is employed by HACY.

Johnson announced that a City firefighter, Mike Caltabiano, is in the Intensive Care Unit at Yuma Regional Medical Center with a respiratory infection. He asked the members of the community to keep him in their thoughts and prayers.

Mendoza congratulated the Chief of Police on his Arizona Peace Officers Standards and Training Board certification. He also congratulated the Communications Department on its recent nomination of the Western Access Video Excellence Award (WAVE) for City Channel 73 and Ciudad 72.

Mayor Nelson reported on his recent speaking engagement at 4th Avenue Junior High School.

VIII. SUMMARY OF CURRENT EVENTS


Watson announced that the House and Senate budget bills have allocated \$2 million to the Yuma Crossing National Heritage Area in the upcoming budget.

IX. EXECUTIVE SESSION/ADJOURNMENT

Motion (Beeson/Mendoza): To adjourn the meeting. Voice vote: **adopted** 7-0. The meeting adjourned at 7:36 p.m. No Executive Session was held.


Brigitta M. Kuiper, City Clerk

APPROVED:


Lawrence K. Nelson, Mayor

Approved at the City Council Meeting of:
November 18, 2009
City Clerk: B. Kuiper